

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of RACHEL JOYCE, LEIA JOYCE,
DANIEL JOYCE, FAITH JOYCE, JOSEPH
JOYCE, and TERENCE JOYCE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RENEE JOYCE,

Respondent-Appellant.

In the Matter of RACHEL JOYCE, LEIA JOYCE,
DANIEL JOYCE, FAITH JOYCE, JOSEPH
JOYCE, and TERENCE JOYCE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TERENCE JOYCE,

Respondent-Appellant,

and

RENEE JOYCE,

Respondent.

Before: Davis, P.J., and Sawyer and Schuette, JJ.

UNPUBLISHED

June 22, 2006

No. 266399

Oakland Circuit Court

Family Division

LC No. 2005-705200-NA

No. 266686

Oakland Circuit Court

Family Division

LC No. 2005-705200-NA

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order assuming jurisdiction of the minor children. We affirm. These appeals are being decided without oral argument pursuant to MCR 7.214(E).

Respondent-father contends that the trial court erred by failing to adjourn the trial date. The grant or denial of an adjournment is discretionary and is reviewed for an abuse of discretion. *In re Jackson*, 199 Mich App 22, 28; 501 NW2d 182 (1993). Respondent-father's original attorney moved to withdraw, and the court appointed another attorney to represent him on June 15, 2005. Although the bench trial scheduled for June 28, 2005 was adjourned, counsel addressed matters such as visitation and services being offered to respondents. Respondent-father's new attorney did not address petitioner's failure to provide discovery at that hearing. Rather, at the continued trial date, *some three months later*, respondent-father's attorney requested an adjournment because he realized that morning that he had not received discovery from petitioner. The court denied the request for an adjournment, but provided copies of the documents in question to respondent and his attorney before testimony was taken.

MCR 2.923(G) provides that an adjournment of a hearing in a child protective proceeding should be granted only for good cause and only taking into consideration the best interests of the children. Respondent-father's attorney argued below that the fact that his client was not provided with discovery constituted good cause. While respondent was entitled to the documents in question, his attorney waited until the eleventh hour to raise this issue. A trial court may deny a motion for adjournment based on discovery if the moving party lacked diligence, was at fault, or was in some way negligent. *Michigan State Highway Comm v Redmon*, 42 Mich App 642, 646; 202 NW2d 527 (1972). We find that, because respondent-father and his attorney lacked diligence with regard to the discovery in question, the trial court did not abuse its discretion in denying respondent-father's motion.

Respondents next contend that the trial court erred in assuming jurisdiction of the minor children. "To properly exercise jurisdiction, the trial court must find that a statutory basis for jurisdiction exists." *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). This Court reviews the trial court's decision to exercise jurisdiction for clear error in light of the trial court's findings of fact. *Id.*

Respondents' argument that grounds for jurisdiction were not demonstrated by a preponderance of the evidence is based on respondent-mother's trial testimony that she did not observe any marks on the oldest child's body, that she was not afraid to go home, and that she was not a victim of domestic violence. This testimony contradicted her previous statements to the child's teacher, the police officer, and the caseworker. However, there was testimony revealing respondent-mother's statements that respondent-father beat the child, that respondent-father had been abusing her and the children, and that respondent-mother was afraid to go home.

In applying the clearly erroneous standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). We find that the trial court did not clearly err

in assuming jurisdiction under MCL 712A.2(b)(1) and (2) based on the statements made to the child's teacher, the police officer, and the caseworker by respondent-mother about the abuse in the home.

Affirmed.

/s/ Alton T. Davis
/s/ David H. Sawyer
/s/ Bill Schuette